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*Attorneys for Defendants*  
VXN GROUP LLC and MIKE MILLER

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

MACKENZIE ANNE THOMA, a.k.a.  
KENZIE ANNE, an individual and on  
behalf of all others similarly situated,

Plaintiff,

v.

VXN GROUP LLC, a Delaware  
limited liability company; MIKE  
MILLER, an individual; and DOES 1  
to 100, inclusive,

Defendants.

Case No. **2:23-cv-04901 WLH (AGRx)**

**APPLICATION FOR LEAVE TO  
FILE UNDER SEAL EXHIBITS  
FROM DEFENDANTS' MOTION  
FOR SANCTIONS PURSUANT TO  
RULE 37(e) AND THE COURT'S  
INHERENT POWER**

1  
2 **APPLICATION FOR LEAVE TO FILE UNDER SEAL THE**  
3 **TRANSCRIPT OF LARRY LERNER’S DEPOSITION**

4 Pursuant to the parties Stipulated Protective Order [**Dkt. 92**, at §12.3] and  
5 Civil Local Rule 79-5, Defendants VXN Group LLC and Mike Miller  
6 (“Defendants”) hereby respectfully apply for leave of Court for an order sealing the  
7 various materials and states as follows:

8 On July 9, 2024, after briefing Plaintiff’s privacy concerns, the Court ordered  
9 the parties to “file a stipulation and proposed protective order[.]” [**Dkt. 89**, at 4].  
10 The parties submitted, [**Dkt. 91**], and the Court entered, a Stipulated Protective  
11 Order on July 17. [**Dkt. 92**]. It covers “personal identifying information, financial,  
12 and/or proprietary information.” *Id.* at § B. the Protective Order allows for the  
13 parties to designate material as confidential that is “in documentary form” as well  
14 as “testimony given in depositions that the Designating Party identify the  
15 Disclosure or Discovery Material on the record, before the close of the  
16 deposition[.]” *Id.* at §§ 5.2(a)–(b).

17 Defendants “may disclose any information or item designated  
18 ‘CONFIDENTIAL’” to, *inter alia*, “the court and its personnel[.]” [**Dkt. 92**, at §  
19 7.2(d)]. “A party that seeks to file under seal any Protected Material must comply  
20 with Civil Local Rule 79-5. Protected Material may only be filed under seal  
21 pursuant to a court order authorizing the sealing of the specific Protected Material  
22 at issue.” *Id.* at § 12.3. When “someone else has designated these documents as  
23 confidential pursuant to a protective order,” L.R. 79-5.2.2, a specific procedure  
24 applies. *See also id.* 79-5.2.2(a)(1) (“That the information may have been  
25 designated confidential pursuant to a protective order is not sufficient justification  
26 for filing under seal[.]”).

27 At least 3 days before seeking to file under seal a document containing  
28 information previously designated as confidential by another pursuant  
to a protective order, the Filing Party must confer with the person that  
designated the material confidential (the “Designating Party”) in an  
attempt to eliminate or minimize the need for filing under seal by means

of redaction. If the document cannot be suitably redacted by agreement, the Filing Party may file an Application pursuant to subsection (a), but the supporting declaration must identify the material previously designated as confidential, as well as the Designating Party, and must describe in detail the efforts made to resolve the issue.

L.R. 79-5.2.2(b).

On October 31, 2024, counsel for the parties conferred on the confidentiality status of several documents, and Plaintiff did not oppose filing those materials under seal. Namely, the deposition of and email from Larry Lerner contain Plaintiff's sensitive financial information, and the two sets of texts messages were designated as "confidential" under the parties' Protective Order to resolve a dispute over their privileged status. Thus, Defendants seek leave to file the following materials under seal in support of its Motion for Sanctions pursuant to Rule 37(e) and the Court's Inherent Power.

Description	Produced By	Status	Exhibit
Transcript of Larry Lerner's Deposition	N/A	Confidential	Ex. C
Text Messages	Murphy	Confidential	Ex. F
Supplemental Text Messages	Murphy	Confidential	Ex. G
Email to Larry Lerner regarding Taxes	Plaintiff	Stipulated	Ex. S

Accordingly, Defendants respectfully request that the Court grant it leave to file the above-listed documents under seal.

Dated: November 12, 2024

Respectfully submitted,  
KANE LAW FIRM

By: /s/ Brad S. Kane

Brad Kane  
Trey Brown  
Attorneys for Defendants  
VXN Group LLC and Mike Miller

**CERTIFICATION OF CONFERRAL**

This motion is made following the conference of counsel pursuant to L.R. 7-3 which took place on October 31, 2024.

By: /s/ Brad S. Kane

Brad Kane

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